

ORDINANCE NO. 05-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 11, ARTICLE XIII OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO TOWING SERVICES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Chapter 11, Article XIII, of the Code of Laws of Leon County, Florida, entitled "Towing Services," is hereby amended to read as follows:

ARTICLE XIII. TOWING SERVICES

**DIVISION 1. GENERALLY; APPLICABLE TO TRESPASS
TOWING AND ROTATION TOWING**

Sec. 11-330. Definitions.

{Unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article its more effective application.} The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Applicable law enforcement shall mean the Leon County Sheriff's Office. ~~law enforcement agency which has jurisdiction in the area in which a vehicle is towed.~~

Class A vehicles shall mean cars, motorcycles, light duty trucks, boats, campers, and other vehicles weighing 10,000 pounds (gross vehicle weight as designated on the vehicle registration, if applicable) or less.

Class B vehicles shall mean medium duty trucks, motor homes, camper trailers, and other vehicles weighing between 10,001 and 20,000 pounds (gross vehicle weight as designated on the vehicle registration, if applicable).

Class C vehicles shall mean heavy duty trucks, house trailers, buses, and other vehicles weighing more than 20,000 pounds (gross vehicle weight as designated on the vehicle registration, if applicable).

Crabbing shall mean the prohibited practice of driving in a manner which causes the towed vehicle to take up any portion of the roadway other than the lane in which the wrecker is occupying, where the towed vehicle is out-tracking from and deviating from the path of the wrecker.

Dragging shall mean the prohibited practice of hooking a wrecker up to a vehicle and dragging it out of the parking space to complete the attachment process, or the process of placing the grounded end on dollies. Dollies and safety straps, or other devices used for safe towing of these vehicles, must be put in place before moving a vehicle.

Emergency shall mean circumstances where the usual operation of a business or other private property is impeded by the blocking of entrances, exits or access to operational equipment, but specifically shall not include tows for the purpose of clearing parking areas.

LCSO shall mean Leon County Sheriff's Office.

Major credit card shall mean a valid Visa or Master Card.

Relay towing shall mean the prohibited practice in which the towing wrecker operator removes a vehicle and takes it to an alternate location other than the storage lot in order to simultaneously remove multiple vehicles in a reduced amount of time, then later transporting all vehicles to the storage facility.

Roam towing shall mean towing of vehicles as defined in trespass towing where the towing establishment has entered into a contract with a private property owner to roam their property during designated hours to remove illegally parked vehicles.

Rotation towing system shall mean a system whereby a group of towing establishments have agreed, in writing, to rotate answering calls for towing and storage services when requested by a law enforcement agency at the scene of an accident or disabled vehicle. The towing establishments shall be placed on a call list, and contacted in ranking order as the need arises, and then rotated to the bottom of the list.

Rotation towing shall mean towing pursuant to a wrecker operator system established by the Leon County Sheriff's Office, the Tallahassee Police Department, or the Florida Highway Patrol, Florida Agriculture and Mechanical University Police Department or Florida State University Police Department with regard to wrecked, disabled, illegally parked or abandoned vehicles. This shall not include towing which is franchised by, owned by, or under contract with Leon County, the City of Tallahassee, the State of Florida, the Board of Regents, or a political subdivision of the State of Florida.

Sheriff shall mean the Leon County elected constitutional officer.

Towing administrator shall mean the employee designed by the LCSO to administer towing services within Leon County.

Towing establishment shall mean any building or site in which the business of towing vehicles is headquartered.

Towing services shall mean wrecker, hauler, etc. used to transport a vehicle not under its own power.

Towing wrecker operator shall mean any driver or other employee that has direct and approved access to any towed vehicle.

Trespass towing shall mean towing or removal of a vehicle that is illegally parked on private real property, at the property owner's direction, or as defined as roam towing.

Sec. 11-331. Liens for recovering, towing, or storing vehicles.

(a) Any person regularly engaged in the business of recovering, towing or storing vehicles who comes into possession of a vehicle pursuant to Section 713.78(2), Florida Statutes, and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state. Said notice shall be as provided in Section 713.78(4), Florida Statutes.

~~(b) In addition to the notice provisions of Section 713.78(4), Florida Statutes, unless the vehicle is determined to be unrebuildable/damaged 80% and a certificate of destruction can be issued, if the vehicle is five model years old or newer notice must also be served on only the lien holder by the sheriff, by a special process server appointed by the sheriff, or by a certified process server and shall be served pursuant to the provisions of Chapter 48, Florida Statutes. The returned execution of process shall be submitted by the person applying for title to the vehicle.~~

~~(b)(e)~~ In addition to the notice provisions of Section 713.78(4), Florida Statutes, the notice shall provide a date, time and place for the sale authorized pursuant to Section 713.78, Florida Statutes.

Sec. 11-332. Storage area requirements.

In addition to the requirements of Section 715.07, Florida Statutes, storage sites utilized by towing establishments for the storage of motor vehicles towed pursuant to trespass or rotation towing must: ~~be surrounded by a chain-link or solid wall type fence at least six feet in height and be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime.~~

(a) Be securely locked;

- (b) Cover an area with a minimum 7,500 square foot area;
- (c) Be enclosed by a chain link or solid wall type fence at least six feet in height; and
- (d) Be illuminated with lighting of sufficient intensity expanding to a distance of at least 150 feet during nighttime.

The storage area shall be inspected annually by the LCSO towing administrator during the annual application and inspection process.

Sec. 11-333. Publication of notice.

If publication of notice is required, such notice shall be published in a newspaper of general circulation in the county which is published at least one day a week and of general interest and readership in the county pursuant to Chapter 50, Florida Statutes, not one of limited subject matter.

Sec. 11-334. Prohibitions.

(a) It shall be a violation of this article to charge any fee which is based on law enforcement response to a call by the owner of a vehicle.

(b) It shall be a violation of this article to charge a "gate fee" release fee that exceeds the normal towing and storage fee for towed vehicles which are released from storage facilities during normal business hours. "Normal business hours" shall be from 8 a.m. to 11 p.m.

(c) It shall be a violation of this article for any owner or employee of a towing establishment person other than the real property owner or an authorized representative of the owner or towing service to move, remove or deface any tow-away sign, without the permission of the real property owner or an authorized representative of the owner.

(d) It shall be a violation of this article for any owner or employee of a towing or wrecker service to compensate, by cash or in-kind services, a property owner or their agent in exchange for any agreement to tow vehicles from the property owner's property.

(e) It shall be a violation of the article to exceed the fees set forth in this article.

~~(f) Except for towing in the normal course of its business, it shall be a violation of this article for a towing or wrecker service to tow vehicles from its property or the property of its agents, unless the property is the towing service owner's primary place of business.~~

~~(f)~~(g) It shall be a violation of this article to operate a wrecker without maintaining insurance coverage in the following minimum amounts:

- (1) Garage liability insurance in an amount of not less than \$300,000 combined single limit liability;

- (2) Garage keeper's legal liability in an amount of not less than \$50,000, covering perils of fire and explosion; theft of a vehicle, its parts, or contents; riot and civil commotion; vandalism, and malicious mischief;
- (3) On-hook coverage in an amount of not less than \$50,000.00 covering damage to a vehicle or vehicles in tow;
- (4) Bodily injury liability insurance and property damage liability insurance in amounts of not less than:
 - a. \$50,000.00 per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds;
 - b. \$100,000.00 per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds or more but less than 44,000 pounds.
 - c. \$300,000.00 per occurrence for a wrecker with a gross vehicle weight of more than 44,000 pounds.

(g) It shall be a violation of this article for any owner or employee of a towing establishment to attach a towed vehicle in such a manner that it is not traveling in a straight line behind the wrecker (otherwise known as "crabbing"), so that both vehicles fail to remain in a single lane of travel, in violation of Section 316.089(1), Florida Statutes.

(h) It shall be a violation of this article for any owner or employee of a towing establishment to demand a "no tow" fee if the vehicle they are physically connected to exceeds the gross vehicle weight of the wrecker. For example, a Class A wrecker is not capable of towing a Class C vehicle because the combined weight of the two vehicles exceeds the gross vehicle weight capability of the wrecker.

Sec. 11-335. Penalties.

In addition to those penalties imposed by Florida Statutes, Section 715.07, violation of any provision of this article, including any of the requirements of Section 715.07, shall be subject to the following civil and criminal penalties:

- ~~———— (1) ——— Any person who violates this article shall be liable to the owner or lessee of the vehicle for all costs of recovery (including all towing and storage fees) plus attorney's fees and court costs, and shall in addition be liable to the owner or lessee of any towed or removed vehicle for damages resulting directly or indirectly from the removal, transportation or storage of the vehicle.~~

- ~~(2) Any person who violates any of the provisions of this article shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment.~~

Sec. 11-335. Owner, operator and vehicle registration provisions.

It shall be unlawful for any person, either as principal, agent or employee of a towing establishment, to conduct trespass or rotation towing services without having first registered the owner, towing wrecker operators and towing service vehicles with the LCSO, using a format approved by the LCSO. The information for Leon County registration shall contain the make, model and manufacturer's serial number of the vehicle; date the vehicle was put into service; the driver's license number of the owner and of all towing service vehicles; the name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law; the name and driver's license number of all employees involved in the towing of vehicles from public and private property, and such other information as may be required. It shall be the responsibility of the towing establishment to provide updated information to the LCSO.

Sec. 11-336. Operator's permit; renewal.

(a) No wrecker owner or operator shall conduct trespass or rotation towing services without first having obtained a written permit and identification card from the LCSO. After satisfactory completion of the required permit application process, the LCSO shall issue a permit and identification card. Each permit and identification card shall contain the following:

- (1) a photograph of the towing wrecker operator;
- (2) the name of the wrecker service and towing wrecker operator's first and last name;
- (3) a control number that can be linked back to the driver's personal information;
- (4) a place for the towing administrator to validate the card;

After the card is validated it shall be laminated to protect the information contained on the card. If the permit is lost, damaged, stolen or becomes illegible the card, shall be replaced by the LCSO.

(b) It shall be a violation of this ordinance for the owner of any towing establishment to permit any person to be employed as a towing wrecker operator within the county unless such person has been granted a written permit to engage in trespass or rotation towing by the LCSO. Each permit shall be valid for three (3) years from date of issuance.

(c) In order to secure a towing wrecker operator permit, an applicant shall comply with the following and provide such information on a form provided by the LCSO.

- (1) The applicant shall be at least 18 years of age.
- (2) The applicant shall possess a valid Florida Class D driver's license and provide a photocopy to the wrecker administrator.
- (3) The applicant shall not have a prior conviction or adjudication withheld of the following:
 - a. Any felony conviction if his or her civil rights have not been restored;
 - b. Any felony or first degree misdemeanor directly related to the business of towing motor vehicles;
 - c. Within the previous five years, of driving under the influence of alcohol, a controlled substance, or a chemical substance, to the extent that normal faculties are impaired; driving with an unlawful blood alcohol level, or any other criminal traffic offense; or
 - d. Any sexual, or lewd and lascivious offense.
- (4) The applicant shall undergo a background check consisting of:
 - a. fingerprinting;
 - b. seven year driver's license history; and
 - c. criminal history check via the Florida Criminal Information Center / National Criminal Information Computer.

(d) Renewals.

- (1) The operator's permit shall be renewed every three (3) years for operators who remain with the same towing establishment. Prior to an operator towing with a different towing establishment who is also on rotation in this jurisdiction, the operator shall notify the LCSO towing administrator.
- (2) Towing establishments on rotation shall be re-inspected every year. It shall be the towing establishment's obligation to notify the LCSO towing administrator, and schedule the renewal inspection prior to the date of expiration.

Sec. 11-337. Vehicle permit; renewal.

(a) Application or renewal for a vehicle permit utilized for trespass and/or rotation towing shall be made to the LCSO towing administrator. The process will consist of the following:

(1) Equipment check of the vehicle by the LCSO to include the following items:

- a. Minimum manufacturer's rated capacity-track chassis- 10000 GVW with a minimum 16' bed.
- b. Wrecker is commercially manufactured.
- c. Winch with a minimum capacity of 4 tons.
- d. At least 50 feet of cable at least 3/8 inch in diameter.
- e. Minimum of 2 safety tie down chains no less than 10 feet each.
- f. Snatch block.
- g. Extra towing chain with hooks (6-8 feet).
- h. Two-way radio or mobile phone.
- i. Amber emergency lights.
- j. Clearance and marker lights.
- k. 2 spot (flood) lights mounted on the rear of the vehicle.
- l. Proper lettering, professionally done on both sides of wrecker.
- m. Bolt Cutters (minimum of 1/2 inch opening).
- n. Flashlight.
- o. 30 minute fuses, red reflectors, or triangles.
- p. Fire Extinguisher, CO2 or dry chemical based.
- q. 4-way lug wrench.
- r. Crowbar or pry bar, minimum of 30 inches.
- s. Heavy-duty push broom.
- t. 50 pounds of sand or equivalent for fluid absorbency.
- u. Set of jumper cables.

v. Square shovel.

w. Axe.

x. All other equipment required by Section 715.07, Florida Statutes.

(2) Providing copies of vehicle records, such as motor vehicle registration and insurance maintenance proof, to the LCSO towing administrator.

(3) City/County occupational license.

(b) Upon satisfactory completion and approval of the wrecker vehicle permit application, a validation decal will be issued by LCSO to the applicant, with a tracking number for that vehicle to be affixed to the lower driver's side corner of the windshield.

(c) Wrecker vehicle permits shall be renewed as set forth in Section 11-336(d) of this article.

Sec. 11-338. Penalties.

(a) In addition to those penalties imposed by Florida Statutes, Section 715.07, violation of any provision of this article, including any of the requirements of Section 715.07, shall be subject to the following civil and criminal penalties:

(1) Any person who violates this article shall be liable to the owner or lessee of the vehicle for all costs of recovery (including all towing and storage fees) plus attorney's fees and court costs, and shall in addition be liable to the owner or lessee of any towed or removed vehicle for damages resulting directly or indirectly from the removal, transportation or storage of the vehicle.

(2) Any person who violates any of the provisions of this article shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment.

(b) Any violation of any combination of prohibited practices known as crabbing, relay towing, or dragging in a 12 month period shall result in the following schedule of fines:

First violation- \$50.00 fine

Second violation- \$100.00 fine

Third and subsequent violation- \$100.00 fine accompanied with a revocation of towing wrecker operator privileges in accordance with Sec. 11-339 of this article.

(c) The Sheriff or designee shall have the authority to determine the penalty, consistent with the provisions of this section, and to impose and enforce these provisions.

(d) Any fines, fees or other costs due shall be paid directly to the Clerk of the Court.

Sec. 11-339. Revocation of privilege of conducting towing; due process hearing.

(a) Grounds for revocation. In addition to, or as an alternative to, the penalties set forth in Sec. 11-338, the Sheriff or designee may revoke the towing privilege of any person, firm or corporation to conduct towing on any of the following grounds:

- (1) The towing establishment owner and/or operator fails to register as required by this article; or
- (2) The registration contains false statement of a material fact; or
- (3) The towing establishment owner and/or operator provides monetary compensation or other compensation as a kickback to the private property owner as an inducement for signing a contract with the towing establishment to tow vehicles from the property; or
- (4) The towing establishment owner and/or operator provides monetary compensation or other compensation as a kickback to the private property owner for an individual vehicle towed from the property; or
- (5) The towing establishment owner and/or operator charges fees in excess of those set out in this article; or
- (6) The towing establishment owner and/or operator violates any of the provisions of this article or Florida Statutes; or
- (7) The towing establishment owner and/or operator fails to clearly display the wrecker vehicle permit on the lower left corner of the windshield of the wrecker vehicle immediately prior to towing a vehicle and/or while performing a tow; or
- (8) The towing establishment operator fails to clearly display his or her LCSO operator's identification on or about his or her person immediately prior to performing a tow.

(b) Determination of violation. Upon the receipt of a complaint of any towing establishment owner and/or operator or upon a complaint initiated by the Sheriff or designee, the Sheriff or designee may conduct an investigation regarding any violation of this article.

(c) Notice of proposed revocation. Upon a probable cause determination that a violation has occurred and that revocation is the appropriate action, the Sheriff or designee shall notify the towing establishment owner and/or operator in person or by certified mail, return receipt requested, of its proposal of revocation.

- (1) Notice shall be made by the Sheriff or designee either in person or by certified mail, return receipt requested, within five working days following the determination of revocation. Notice by mail shall be considered within the five day time period when placed within the United States Mail.
- (2) The notice shall state that the towing establishment owner and/or operator may request a due process hearing within 15 calendar days after receiving such notice.
- (3) When a due process hearing is desired, a request must be made in writing by the towing establishment owner and/or operator to the Sheriff or designee by certified mail, return receipt requested. Such request must be received by the Sheriff or designee within the 15-day time period.
- (4) The Sheriff or designee shall set and notice the due process hearing within 15 working days after the request is received or as soon as practicable thereafter.
- (5) Failure to request a due process hearing within the 15 calendar day period or in the manner prescribed in this article shall constitute a waiver by the towing establishment owner and/or operator of any right to a hearing.

(d) Due process hearing. Upon a review of the evidence presented at the due process hearing, and a finding that a violation has occurred, the Sheriff or designee may revoke the towing establishment owner's and/or operator's privilege to engage in the business of towing not to exceed one year. The decision of the Sheriff or designee shall be final.

(e) Final determination notice. Upon making a final determination, the Sheriff or designee shall promptly notify the towing establishment owner and/or operator of the decision to either affirm or alter the proposed revocation as set forth in the notice of proposed revocation. Such notice may be made by hand delivery or by certified mail, return receipt requested.

(f) Any towing establishment owner and/or operator whose privilege to engage in the business of towing has been revoked shall not be eligible to again register with the Sheriff for towing during the period of revocation.

(g) The Sheriff or designee shall have the authority to adopt such rules and regulations as are necessary for the implementation and administration of this article, including, but not limited to, hearing procedures.

DIVISION 2. TRESPASS TOWING

Sec. 11-340. Prerequisites to towing vehicles parked on private property (trespass towing); exceptions.

(a) It shall be a violation of this ordinance for a person hired by the owner of private property within the county to do any trespass towing without having first obtained approval of the LCSO of any towing signs posted on the property. In addition to the requirements of Section 715.07, Florida Statutes, the wording on the sign shall indicate if towing is conducted other than normal business hours by the posting of a sign indicating "24 hours per day."

(b)(a) It shall be a violation of this ordinance unlawful for any person to tow or cause to be towed any vehicle parked on private real property unless the provisions of Section 715.07, ~~of the~~ Florida Statutes, have been complied with together with the following requirements:

- (1) The owners of the real property and the towing establishment service shall have executed, at least 24 hours prior to the towing or removal of any vehicle, a written agreement for trespass towing, which agreement shall contain the following provisions:
 - a. The duration of the agreement;
 - b. The time of day that such towing or removal is authorized;
 - c. The days of the week that such towing or removal is authorized;
 - d. The fees to be paid for the towing or removal;
 - e. The signatures of both the property owner, or the authorized representative, and the owner, or authorized representative of the towing service, certifying that each has read and is in compliance with all of the provisions of Section 715.07, ~~of the~~ Florida Statutes.

The form for such agreement shall be approved ~~provided~~ by the LCSO towing administrator ~~property owner~~, and may not be amended or modified in any manner that provides for terms or activities which violate the provision of this article or Section 715.07, ~~of the~~ Florida Statutes.

- (2) A copy of the completed agreement shall be placed on file with the LCSO. ~~applicable law enforcement agency.~~

- (3) Where the private real property is provided for residential parking other than for a single-family residence, the agreement, except as provided in Section 11-331(a)(4) 11-340(a)(4), shall not authorize the towing service to tow away or remove any vehicle without a verified request to remove the specific vehicle by the property owner or an authorized representative. ~~a representative specifically authorized in writing who is on the scene and remains present to specifically identify the vehicle to be towed.~~ A property owner's representative may include a resident manager, a property manager or other agent who has the legal authority to bind the owner, but may not be an officer, employee or agent of a towing service. ~~Posted notice must comply with Section 715.07(2)(a)5, Florida Statutes.~~
- (4) Owners of properties used for residential purposes may elect to authorize the towing service to tow away or remove vehicles without a verified request to remove a specific vehicle between the hours of 12:00 midnight and 7:00 a.m., provided that the owner first comply with the following requirements:
- a. Posted notice must comply with Section 715.07(2)(a)5, Florida Statutes.
 - b. Signage shall be added to each of the existing tow away signs with letters of the same size as the "tow away" language, which provides the following words: "Roam Towing, 12:00 midnight -- 7:00 a.m."
 - ~~c.b.~~ Towing contract on file with the LCSO applicable law enforcement agency as required by Section 11-340(b)(2) of this article ~~11-331(a)(1)(b)~~ shall be amended to provide for roam towing between the hours of 12:00 midnight and 7:00 a.m. as specified by property owner or agent.
 - ~~d.e.~~ Except in cases where the vehicle is being towed because it does not have a valid parking decal, a ~~A~~ photograph of the illegally parked "offending" vehicle shall be taken by a representative of the towing establishment prior to it's the removal of that vehicle, and should be maintained by the towing establishment company for a minimum period of two years. The photograph shall demonstrate the violation of law, rule or regulation for which the vehicle is being towed.
 - ~~e.d.~~ Lease, rental or property owners' association documents shall contain a notice provision indicating that the residential property utilizes roam towing. In the case of properties with existing leases, rental agreements or property owners' association documents, it shall be sufficient to notify by regular mail, at the last known address, each of the tenants/owners of the property prior to the initiation of roam

towing. All amendments to or new leases, rental agreements or property owners' association documents shall contain the provision giving notice that the property owner intends to utilize roam towing, and a complete and specifically detailed list of all towing instructions and rules violations that will result in towing. A copy of these provisions must be posted in the rental office and the ~~or~~ common area. a ~~A~~ copy must also be maintained on file in each tow vehicle removing cars from the property. The towing administrator shall review and approve the parking rules. At the entrance or entrances a sign shall be posted stating where the parking rules can be read by residents and guests. The parking rules shall be posted in a public area at the complex. The management, to ensure that they have not been altered, should regularly inspect them; any sign that is removed or defaced shall be replaced within 30 days.

~~(c)(b)~~ The provisions of this article shall not apply to:

- (1) The towing of vehicles pursuant to other emergencies; ~~chapter 14, article II, Leon County Code; chapter 23, City of Tallahassee Code; or chapter 15, article II, City of Tallahassee Code;~~
- (2) The towing of vehicles from property appurtenant to and obviously a part of a single-family residence;
- (3) When notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable and that the unauthorized vehicle will be removed at the owner's or operator's expense.

~~(d)(e)~~ The 24-hour notice requirement of this section shall not apply when the tow is of an emergency nature and the owner has notified the LCSO ~~applicable law enforcement~~ prior to removing the vehicle. ~~"Emergency" in this section shall only include circumstances where the usual operation of a business is impeded by the blocking of entrances, exits or access to operational equipment, but specifically shall not include tows for the purpose of clearing parking areas.~~

~~(e)(d)~~ All vehicles towed shall be towed directly to the storage site owned or leased by the towing service and the vehicle shall not be kept in any temporary holding area.

~~(f)(e)~~ Each towing service shall staff or monitor its telephones at all times (pager only does not satisfy this requirement) and immediately advise any vehicle owner or authorized representative who calls by telephone of the following:

- (1) Each and every document or other item which must be produced to retrieve the vehicle;

- (2) The ~~total towing exact~~ charges as of the time of the telephone call, and the rate at which charges will accumulate thereafter;
- (3) The acceptable methods of payment; and
- (4) That the vehicle can be picked up, at the designated location, within one hour of request.

Sec. 11-341. Fees charged for towing vehicles parked on private property (trespass towing).

(a) Fees shall be charged as follows:

- (1) Any towing and storage firm engaged in the business of trespass towing shall not charge the owner of any towed vehicle or personal property in excess of ~~\$88.00~~ \$70.00 for the removal of a Class A vehicle, ~~\$145.00~~ \$132.00 for the removal of a Class B vehicle, and ~~\$300.00~~ \$270.00 for the removal of a Class C vehicle. Fees shall be paid according to the gross vehicle weight, as specified on the registration materials, of the vehicle they are attempting to tow.
- (2) No more than ~~\$15.00~~ \$12.00 per day for storage fees may be charged; however, no storage fee shall be charged for the first 24-hour period of storage of either the towed vehicle or personal property found in the towed vehicle. ~~from the time the vehicle or personal property is towed or removed.~~
- (3) The fee for removal shall be all-inclusive; and no additional fees may be charged for using dollies, trailers, lifts, slim jims, or any other special equipment or services provided by the towing establishment.
- (4) If a certified letter is sent to the owner/lien holder/insurance company pursuant to Section 713.78, Florida Statutes, an administrative fee of ~~\$33.00~~ \$30.00 plus postage plus any out-of-state charges, may be charged 72 ~~48~~ hours after the tow but not before the receipt of a paid certified mail receipt from the post office by the towing establishment. ~~and storage firm.~~ An after hours release fee of \$25.00 may be charged by the towing establishment ~~and storage firm~~ for releasing a stored vehicle between the hours of 11 p.m. and 8:00 a.m.
- (5) Motor vehicles carrying other vehicles (boats, cars, trucks, aircraft, tractors, heavy equipment, ATVs and motorcycles) that are securely attached shall be considered part of that vehicle's load and no additional fee shall be charged.

(b) A person, ~~firm or corporation which~~ who provides trespass towing and storage services pursuant to this section shall accept payment for towing and storage charges from the vehicle owner or authorized representative in any of the following forms:

- (1) Cash; or
- (2) Valid major credit card or debit card.

(c) Maximum trespass towing and storage fees shall be established bi-annually by the Board of County Commissioners after receiving recommendations from the towing establishments describing their costs for the removal and storage of vehicles and personal property, ~~submitted by a Towing Task Force which shall be established by the Board of County Commissioners which will review costs for the removal and storage of vehicles and personal property and other information.~~ The maximum fees shall be set by resolution to be adopted by the Board of County Commissioners prior to December 31 of each year, every other year, commencing in the year, 2001. Such maximum fees shall be effective during the following two calendar years and until changed unless amended by a subsequent resolution.

Sec. 11-342. ~~Owner, operator and vehicle registration provisions for towing vehicles parked on private property.~~

(a) ~~It shall be unlawful for any person, firm or corporation, either as principal, agent or employee, to do any trespass towing without having first registered the owner, operators and towing service vehicles with the applicable law enforcement agency, using a format approved by the law enforcement agency. The information for registration shall contain the make, model and manufacturer's serial number of the vehicle; date the vehicle was put into service; the driver's license number of the owner and of all towing service vehicles; the name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law; and such other information as may be required.~~

(b) ~~It shall be unlawful for a person, firm or corporation hired by the owner of private property within the county to do any trespass towing without having first obtained approval of the police department or sheriff's office of the signs posted on the property. In addition to the requirements of Florida Statutes Section 715.07, the wording on the sign shall indicate if towing is conducted other than normal business hours by the posting of a sign indicating "24 hours per day."~~

(c) ~~All parking regulation announcement signs shall be brought into compliance with this section within ninety (90) days of the effective date of this article.~~

Sec. 11-343. ~~Revocation of privilege of doing trespass towing; hearings; appeal from order of revocation.~~

(a) ~~The chief or sheriff of the applicable law enforcement agency or designee may revoke the privilege of any person, firm or corporation to do trespass towing on any of the following grounds:~~

- ~~(1) The towing service owner or operator fails to register as required by this article; or~~
- ~~(2) The registration contains false statement of a material fact; or~~
- ~~(3) The towing service owner or operator provides monetary compensation to the private property owner as an inducement for signing a contract with the towing service to tow vehicles from the property; or~~
- ~~(4) The towing service owner or operator provides monetary compensation to the private property owner for each individual vehicle towed from the property; or~~
- ~~(5) The towing service owner or operator charges fees in excess of those set out in Section 11-341; or~~
- ~~(6) The towing service owner or operator violates any of the provisions of this article.~~

~~(b) The owner or operator shall be informed in person or by certified or registered mail within seven days prior to the effective date of the revocation.~~

~~(c) The owner or operator may make a written request for a due process hearing within 15 calendar days of the date of the revocation. Failure to request a hearing within the 15 calendar day period shall constitute a waiver by the owner or operator of any right to a hearing.~~

~~(d) The appropriate law enforcement agency shall conduct the hearing to ensure the due process of law.~~

~~(e) Upon a review of the evidence presented at the hearing, the chief or sheriff of the applicable law enforcement agency or designee may revoke the owner's or operator's privilege to engage in the business of trespass towing for up to one year.~~

~~(f) Any towing service owner or operator whose privilege to engage in the trespass towing has been revoked shall not be eligible to again register with the applicable law enforcement agency for trespass towing for a period of one year from the date of revocation.~~

~~(g) Any towing service owner or operator whose privilege to engage in the business of trespass towing has been revoked may file an appeal within five business days of the date of revocation pursuant to the appeals process utilized by the law enforcement agency. The written appeal must identify the basis for the appeal and include any supporting evidence.~~

Sec. 11-342 11-344. Receipt from towing service to be furnished to owner when vehicle towed from private property is claimed.

When a towed vehicle is claimed, the towing service shall furnish the owner or other legally authorized person with a receipt which shall include the name of the person who authorized the towing. The receipt shall also include the following language:

"Notice: Towing from private property is regulated by the provisions of Section 715.07, Florida Statutes and Leon County Ordinance No. 99-23 _____."

Sec. ~~11-343~~ 11-345. Vehicle not towed upon operator returning.

The owner or operator of any towing service vehicle which is summoned to tow away any vehicle, whether on a public street, public property, or private property, shall not remove or tow the vehicle away and shall not charge any fee if the vehicle operator returns to the vehicle prior to the towing service operator having physically connected the vehicle to the towing apparatus. "Physically connected" shall mean one half of the wheel lift apparatus surrounding a tire or the winch hook being properly hooked to the vehicle in an appropriate place on the vehicle where it can safely be towed or winched. If the vehicle is physically connected but not towed away, the towing establishment company may charge up to one-half of the allowable fees as set forth in this article. If the registered owner or other legally authorized person arrives at the scene prior to the removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference, upon payment of a reasonable service fee of not more than one-half of the posted rate, for which a receipt shall be given, unless that person refuses to remove the vehicle which is otherwise unlawfully parked. Removal or towing of the vehicle includes the act of removing the vehicle off of the physical premises that the towing contract encompasses.

Sec. 11-344. Trespass towing rules and regulations; authorization.

The Sheriff shall be authorized to promulgate rules and regulations for the administration of trespass towing.

Secs. 11-345 – 11-349. Reserved.

DIVISION 3. ROTATION TOWING

Sec. 11-350. Fees charged for rotation towing.

(a) Maximum charges for towing and storage services provided by towing wrecker operators in Leon County incident to the rotation system are set forth in the following schedule:

Class A Wreckers (including roll-back or slide-back carriers)

Base Rate	daytime (8 am – 11 pm)	\$60.00
	nights (11 pm – 8 am)	\$75.00
	weekends (11 pm Fri. 8 am Mon.)	\$75.00

*Holidays _____ \$75.00
Mileage Rate per mile charge beyond 10 mile radius _____
From the wrecker operator's _____
place of business _____ \$3.00 per mile
Hourly Rate for waiting or working time on scene _____
after first 30 minutes _____ \$60.00 (15.00 per 1/4 hour)

Class B Wreckers

Base Rate daytime (8 am - 11 pm) _____ \$ 75.00
nights (11 pm - 8 am) _____ \$100.00
weekends (11 pm Fri. - 8 am Mon.) _____ \$100.00
*Holidays _____ \$100.00
Mileage Rate per mile charge beyond 10 mile radius _____
From the wrecker operator's _____
place of business _____ \$4.00 per mile
Hourly Rate for waiting or working time on scene _____
after first 30 minutes _____ \$75.00 (18.75 per 1/4 hour)

Class C Wreckers

Base Rate _____
\$225.00
Mileage Rate per mile charge beyond 10 mile radius _____
From the wrecker operator's _____
place of business _____
\$ 4.00 per mile
Hourly Rate for waiting or working time on scene _____
after first 30 minutes _____ \$145.00 (36.25 per 1/4 hour)
Separate Charges:
A. Removal of drive shaft _____ Included in base rate
B. Air hook up _____ Included in base rate
C. Remove/pull axle _____ \$22.00 per axle
D. Remove bumper _____ Included in base rate
E. Remove air foils _____ Included in base rate
F. Landoll trailer semi roll back or drop back
trailer or truck _____ \$300.00
G. Air bags _____ \$900.00
H. Extra manpower per man hour charge _____ \$ 38.00

Storage for all classes of service

ss A All others

Inside storage per day rate _____ 17.00 _____ 30.00
Outside storage per day rate _____ 12.00 _____ 25.00

Class A, B, and C Administrative fee \$30.00, billed per unit (An additional fee will be charged if a process server is required. The fee shall not exceed the total amount charged by the process server.)

Class A, B, and C After Hours Gate Fee \$25.00 for releases between 11:00 p.m. to 8:00 a.m.

<u>Disabled Vehicles and Crash Towing</u>	<u>Class A</u>	<u>Class B</u>	<u>Class C</u>
<u>Business hours (8:00 a.m. to 6:00 p.m.)</u>	<u>88.00</u>	<u>110.00</u>	<u>230.00</u>
<u>Night hours (6:01 p.m. to 7:59 a.m.)</u>	<u>110.00</u>	<u>135.00</u>	<u>230.00</u>
<u>Weekends and holidays (6:01 p.m. Fri. to 7:59 a.m. Mon.)</u>	<u>110.00</u>	<u>135.00</u>	<u>230.00</u>

<u>Mileage rate per-mile charge outside (boundaries for Leon County are Capital Circle and Interstate 10)</u>	<u>7.00</u>	<u>7.00</u>	<u>8.00</u>
<u>Hourly rate for waiting or working time on scene after the first 30 minutes (Class A, \$20.00 per one-quarter hour) (Class B, \$25.00 per one-quarter hour) (Class C, \$56.25 per one-quarter hour)</u>	<u>88.00</u>	<u>110.00</u>	<u>230.00</u>

<u>Dollies</u>	-	-	-
<u>Business hours</u>	<u>30.00</u>	<u>30.00</u>	<u>N/A</u>
<u>Night hours</u>	<u>35.00</u>	<u>35.00</u>	<u>N/A</u>
<u>Weekends and holidays (6:01 p.m. Fri. to 7:59 a.m. Mon.)</u>	<u>35.00</u>	<u>35.00</u>	<u>N/A</u>

<u>Winching vehicle and uprighting vehicle, per tow</u>	-	-	-
<u>Business hours (8:00 a.m. to 6:00 p.m.)</u>	<u>30.00</u>	<u>30.00</u>	-
<u>Night hours (6:01 p.m. to 7:59 a.m.)</u>	<u>35.00</u>	<u>35.00</u>	-
<u>Weekends and holidays (6:01 p.m. Fri. to 7:59 a.m. Mon.)</u>	<u>35.00</u>	<u>35.00</u>	-

<u>Additional time at the scene</u>			
<u>Business hours: waiting or labor on scene after the first 30 minutes (per person)</u>	<u>50.00</u>	<u>50.00</u>	<u>50.00</u>
<u>Nights, weekends and holidays: waiting or labor on scene after the first 30 minutes (per person)</u>	<u>50.00</u>	<u>50.00</u>	<u>50.00</u>

<u>Landoll trailer, semi rollback or drop back trailer or truck (with one hour minimum, \$300.00)</u>	-	-	<u>325.00</u>
<u>Airbags (with one hour minimum, \$900.00)</u>	-	-	<u>925.00</u>

<u>Storage, fenced yard, per day, after the first 24 hours</u>	<u>20.00</u>	<u>30.00</u>	-
<u>Tractor</u>	-	-	<u>35.00</u>
<u>Trailer</u>	-	-	<u>35.00</u>

<u>Inside storage per day, after the first 24 hours</u>	<u>25.00</u>	<u>35.00</u>	-
<u>Tractor</u>	-	-	<u>45.00</u>
<u>Trailer</u>	-	-	<u>45.00</u>

<u>After-hours gate fee (applies from 6:00 p.m. to 7:00 a.m.)</u>	<u>30.00</u>	<u>30.00</u>	<u>30.00</u>
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<u>Administrative fee pursuant to F.S. § 713.78 that may be charged three days after the tow but not before the receipt of a paid certified mail receipt by the towing establishment. (An additional fee may be charged if a process server is required. The fee shall not exceed the total amount charged by the process server.)</u>	<u>33.00</u> <u>(plus postage and out-of-state fees)</u>	<u>33.00</u> <u>(plus postage and out-of-state fees)</u>	<u>33.00</u> <u>(plus postage)</u>
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(b) It shall be a violation of this article ~~unlawful~~ for a towing wrecker operator or towing establishment wrecker company summoned pursuant to a rotation system to charge any additional fees without the advance permission of the vehicle owner, driver, or authorized representative.

(c) Violation of this section shall constitute a non-criminal offense and shall be grounds for suspension from the rotation system as outlined in the administrative rules and regulations promulgated by the Sheriff.

Sec. 11-351. Rotation system authorization.

(a) The Sheriff or designee is authorized by Section 323.002, Florida Statutes to establish a rotation wrecker towing system utilizing qualified towing wrecker operators for the removal and storage of wrecked or disabled vehicles when the owner or operator of the vehicle leaves the procurement of a towing service to the investigating law enforcement officer.

(b) There shall be a Standard Response Time (SRT) for responding to towing requests made by LCSO. No greater than a forty-five minute arrival response time shall be the SRT, unless exceptional circumstances, including but not limited to, weather, traffic, etc., prohibit compliance. When a failure to comply with the SRT is reported to the towing administrator, it shall be the responsibility of the towing establishment to provide sufficient evidence to establish that the failure to comply was due to exceptional circumstances. Failure to comply with the SRT shall subject the towing establishment to be skipped in the next rotation.

Sec. 11-352. Vehicle owner requests for specific service.

The rotation system rules and fees do not apply to a vehicle owner's request for utilization of a specific towing wrecker operator or towing establishment when such a request can be reasonably honored.

Sec. 11-353. Wreck chasing prohibited.

Towing establishments must adhere to Section 323.002, Florida Statutes, specifically regarding wreck chasing.

Sec. 11-354. Rotation towing rules and regulations; authorization.

The Sheriff shall be authorized to promulgate rules and regulations for the administration of rotation towing.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan

Section 3. Severability.

If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2005.

LEON COUNTY, FLORIDA

BY: _____
CLIFF THAELL, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

BY: _____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY